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EVOLUTION OF LAW: SELECT READINGS ON THE ORIGIN AND DEVELOPMENT OF LEGAL INSTITUTIONS. Compiled by Albert Kocourek, Professor of Jurisprudence in Northwestern University, and John H. Wigmore, Professor of Law in Northwestern University. Volume I, Sources of Ancient and Primitive Law, pp. xvii, 702; Volume II, Primitive and Ancient Legal Institutions, pp. xiii, 704. Boston: Little, Brown and Company. 1915.

Professor Wigmore's enthusiasm and energy had already been the motive force behind four important series under the auspices of learned societies. To the Select Essays on Anglo-American Legal History, the Modern Criminal Science Series, the Continental Legal History Series, and the Modern Legal Philosophy Series, we now have added the Evolution of Law Series, which is by no means the least of these, whether intrinsically or in its possibilities, for the teacher of legal science.

As indicated by the preface, and especially by the eloquent and suggestive addendum to the preface, contributed by Professor Wigmore, the purpose of the series is to afford a collection of materials for the study of what Kohler calls "universal legal history" in such form as to permit of instruction in that subject in accordance with the methods that prevail in the modern law school. Regarding the "universal legal history" of the neo-Hegelians as a development of Maine's comparative legal history, or possibly both as a development of the Hegelian idealistic interpretation, the "working thesis" of the compilers is "the essential unity of human nature" (I, p. viii). "This," they say, "furnishes the distinguishing marks of the phases and stages of legal evolution and provides at least one of the important tests of legislative policy" (I, pp. viii-ix). They would agree with Fehr that "over and above race and nation there must be conditions of general validity governing the production of law. . . . The likeness of law in cases of the most striking unlikeness of race can only be explained by a common human basis."¹ Lawyers have not been content with the interpretation of the legal history of each people as a unique series. It is the business of the lawyer to find principles behind what are superficially unique instances. Thus, as philosophers have remarked, there is a natural affinity between the Hegelian philosophy and the historical school of law.²

Among the many signs of a new period of legal growth, perhaps this return to the fundamental idea of human nature as the basis of legal science, the idea which dominated in the great growing period in the seventeenth and eighteenth centuries, is not the least significant. Perhaps for the third time a law of nature is to be invoked to guide a rationalizing and liberalizing movement. But this time there will be no spinning out of an *a priori* law of nature from the head of a jurist. Rather it will be rested upon the solid ground of a universal legal history. Even if one might think that what the compilers style "the mechanical pantheism of Post" (I, p. viii) is hardly adequate to stand for the sociological theory of the present, and would like to see a collection of materials for a sociological legal history, such, for example, as Kantorowicz calls for,³ he can but rejoice not merely at having so convenient and complete a source-book for the study of legal beginnings made generally accessible, but even more at the success of the compilers in working their materials quietly but effectively into a plan which reveals a philosophical theory of legal history and a well-ordered system of legal philosophy.

In the first volume, under Part I, "General Literature Containing References to Ancient and Primitive Law and Institutions," there are extracts from the Iliad, the Odyssey, Plutarch (Theseus, Romulus, Lycurgus, Numa, Solon), Cæsar (the Britons, the Germans, the Druids), Tacitus, and the Njals Saga.

¹ Hammurapi und das salisches Recht, 136.

² Erdmann, History of Philosophy (Hough's transl.) iii, 328.

³ Rechtswissenschaft und Soziologie, 30-34.

Part II, "Modern Observations of Retarded Peoples," covers Australians, Eskimos, American Indians, Kafirs, and the Fanti of the Gold Coast. Part III contains in whole or in long and well-chosen extracts, Ancient Accadian Laws, Hammurabi, the Edict of Harmhab (Egyptian), the Laws of Gortyn, the Twelve Tables, Manu, the Salic Law, Ethelbert's Dooms, the Laws of Howel Dda. Part IV, "Ancient and Primitive Legal Transactions," contains trials, procedural formulæ, and accounts of the course of litigation from Egypt, Babylon, Greece (Demosthenes), Rome (Cicero and Gaius), and the Germanic peoples, followed by Egyptian, Babylonian and Assyrian documents.

The second volume, intended to be used with the first, is made up of extracts from writers on the history and philosophy of law and of social institutions. In the introductory chapter, Kohler on the evolution of law and Post on ethnological jurisprudence are followed by Tarde's theory of imitation and a critique thereof by Girard, and these by Del Vecchio's well-known "Universal Comparative Law," now translated into a fifth language. Part I, "Law and the State," has chapters on Forms of Social Organization, Evolution of the State, Omnipotence of the Ancient State, Chieftaincy and Kingship, Religion and Law, Evolution of Criminal Law, The Forms of Law, and Methods of the Law's Growth, with extracts, among others, from Kohler, Fustel de Coulanges, and Maine. Part II, "Persons," has twelve chapters, covering the beginnings of family law, slavery, and the Roman impairment of civil personality and loss of civic honor. Part III, "Things," has ten chapters, dealing with property, the origin of commercial institutions, primitive commercial law, barter and transfer, pledge, suretyship, the evolution of contract, sales and loans at Rome, interest, and succession. Part IV is made up of extracts from writers upon the history and evolution of procedure and the procedure of primitive or archaic law.

Much of the translation has had to be done by the compilers themselves, and in view of this burden, added to the difficult task of selection and compilation, not at random, but with a clear purpose and according to a matured plan, these volumes are indeed a notable achievement.

ROSCOE POUND.

VOTING TRUSTS. By Harry A. Cushing. New York: The Macmillan Company. 1915. pp. 226.

This is a book on a modern development of corporate law written by one who shows an intimate acquaintance with present commercial methods and with recent history of corporate management. Mr. Cushing's literary style is excellent, his citation of authorities is exhaustive, and he has given in compact form a clear and illuminating statement of the law of voting trusts not elsewhere to be found.

A discussion of this subject, Mr. Cushing says, in a period when not only concentration of property, but even combinations of mere influence have been subjected to severe criticism, naturally suggests a justification of what some still regard as an innovation of slight utility and of doubtful propriety. Such, however, the author considers hardly more appropriate than a defense of corporate organization itself and, he adds, "no other detail of corporate organization is so peculiarly the result of recent experience or more distinctive of the modern theory and practice in the correct reconstruction of corporate business" — a comment which derives considerable support from the recent decree of the federal court in the New Haven Railroad "dissolution" case, to which Mr. Cushing refers, by which three sets of voting trustees were created, each consisting of five members, who were made "officers of this court" for the purpose of carrying the decree into effect (p. 10). In some states voting trusts are